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FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

2017 MAY -2 AM 10: 02
AW
CLERK OF COURT

ATOS IT SOLUTIONS & SERVICES,
INC.,

Plaintiff,

v.

ANGIEL ELECTRICAL
CONSTRUCTION CORPORATION,
EATON CORPORATION, and SUMMIT
ELECTRIC SUPPLY CO., INC.,

Defendants.

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Civil Action No. 4:16-CV-01155-A

**DEFENDANT ANGIEL ELECTRICAL
CONSTRUCTION CORPORATION'S CROSS-CLAIM
AGAINST CO-DEFENDANT EATON CORPORATION**

TO THE HONORABLE COURT:

Defendant Angiel Electrical Construction Corporation ("AECC"), pursuant to Federal Rule of Civil Procedure 13(g) and Tex. Civ. Prac. & Rem. Code § 16.069, files this Cross-claim against Defendant Eaton Corporation ("Eaton") and would respectfully show this Court as follows.

I. CROSS-CLAIM

1. Plaintiff has alleged that AECC is contractually responsible for the negligence of Eaton (whom Plaintiff characterizes as AECC's "subcontractor") via a "Terms of Trade" document never provided to AECC. While AECC has denied that Eaton was its subcontractor and that the "Terms of Trade" document Plaintiff cites is applicable or enforceable, in the unlikely event that the Court finds that AECC may have responsibility for Eaton's negligent acts or omissions, AECC brings this Cross-claim against Eaton to the extent that Eaton's negligence caused Plaintiff's damages.

2. AECC denies that it has any responsibility for the occurrence or the damages claimed by Plaintiff. However, in the unlikely event that AECC should be found to have any responsibility for the occurrence or alleged damages claimed by Plaintiff, then AECC would show that liability, if any, on the part of AECC is attributable to and was caused by any negligent acts or omissions of Eaton. AECC seeks to exercise its rights of contribution against Eaton.

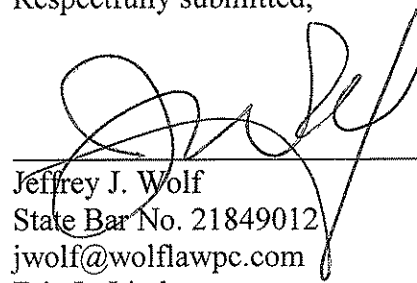
3. AECC also seeks by this Cross-claim to exercise its rights of indemnity against Eaton as allowed by Texas law. In particular, AECC was an “innocent seller” of the refurbished circuit breaker supplied by Eaton (as a “rebuilder”) and is entitled to statutory indemnity pursuant to Tex. Civ. Prac. & Rem. Code § 82.002, including recovery of its reasonable and necessary attorneys’ fees. To the extent AECC’s alleged liability is purely vicarious based on Eaton’s acts or omissions in refurbishing and reinstalling the breaker and performing warranty work on the breaker, AECC is also entitled to common-law indemnity.

4. This Crossclaim is timely filed pursuant to Tex. Civ. Practice & Rem. Code § 16.069.

II. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Angiel Electrical Construction Corporation respectfully requests that in the event of a recovery by Plaintiff in this civil action, that it recover contribution and/or indemnity from Defendant Eaton Corporation (including attorneys’ fees and court costs) and that the jury be allowed to consider Eaton Corporation’s responsibility, and that the Court grant all such other and further relief to which AECC is justly entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffrey J. Wolf', is written over a horizontal line.

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ANGIEL ELECTRICAL CONSTRUCTION

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing *Defendant Angiel Electrical Construction Corporation's Cross-claim Against Co-Defendant Eaton Corporation* was served on the following parties in the manner stated on this ~~2nd~~ ^{2nd} day of May, 2017.

Via E-mail: jbosco@leoncosgrove.com

And Via E-Service

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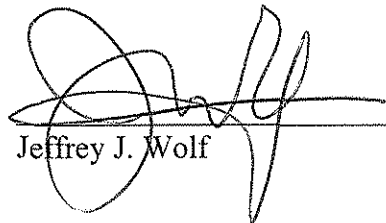
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